

\* UNITED STATES DISTRICT COURT \*

\* OF DELAWARE \*

CURRIS v. COMMONS

cv. no. 05-739-S.L.R.

)

v.

WARDEN ROCK KEARNEY, ET AL.

)

)

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)

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OPINIONING

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BRIEF

FILED

DEC 6 2006

RG

Scanned

CURRIS v. COMMONS

DELAWARE "CORRECTIONAL" CTR

SMYRNA, DEL 1997

UNITED STATES DISTRICT COURT

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FOURTEENTH AMENDMENT

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## \* NATURE STAGE OF PROCEEDINGS \*

On 8-6-2005 Plaintiff Curtis M. Collins entered the main chow hall at Breakfast time while at the Sussex Correctional Center Located in Georgetown, De. He asked other inmates already seated at the table to slide down so he could sit down to eat, at which time % Berezansky told Mr. Collins to "Shut the fuck up" and "Throw your fucking food tray away" Mr. Collins asked % Berezansky why he had to throw away his food tray, % Berezansky responded There no talking in the chow Hall, Mr. Collins was not having a conversation with another inmate, he was simply trying to get a place vacated so he could eat his food. Mr. Collins the use the chain of command rank in which he ask Sgt. Chandler why he couldn't finish his food. Sgt. Chandler didn't respond. Mr. Collins dumped his Food tray. As Mr. Collins was leaving the chow hall % Berezansky made a comment directed to Mr. Collins. Then Mr. Collins turned around in attempt to hear what % Berezansky said, % Berezansky punched Mr. Collins in his face. Then hand cuff and pepper spray Mr. Collins before the rest of the % staff of % Milligan, Daisey, Irvine Johnson maliciously assault Mr. Collins When a member from SCJ medical staff ~~REFUSE~~ to look at Mr. Collins injuries. She told Mr. Collins to "stop crying like a little Bitch." Mr. Collins went ~~47~~ days without receiving proper medical treatment. since then x-rays were taken of Mr. Collins ribs that displayed his ribs was fractured Mr. Collins was refuse copies of

\* NATURE \* STAGES \* PAGE 2  
OF PROCEEDINGS

his medical report by the doctor at  
Sussex Correction Center in Georgetown, De

Defender Court PAGE 5\*

## Summary of the Facts

DELAWARE DEPT OF CORRECTION has a DEFENDER who puts together a menu on which an inmate will RECEIVE ALL PROPER NUTRITION

D.E.P.T. OF CORRECTIONAL COMMISSIONER (STANLEY TAYLOR) AND SUSSEX CORRECTIONAL CONSTITUTION, WARDEN (Rick Kearney) supports their correctional OFFICERS TO VIOLATE INMATES FIFTH AMENDMENT Right TO DUE PROCESS UNDER CIVIL RIGHTS ACT by Permitting THE CORRECTIONAL OFFICERS TO ORDER AN INMATE TO DUMP THEIR FOOD TRAY AND NOT PROVIDING THE REQUIRED FOOD NUTRIENT DESIGN by the DEFENDER

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

CIVIL NO 105-739-S.L.R.

## STATEMENT \* OF THE FACTS

Delaware Department of Corrections has a dietitian, who puts together a menu in which an inmate will receive all proper required nutritions.

Department of Corrections, Commissioner, Stanley Taylor and Sussex Correctional Institution, Warden, Rick Kearney support their correctional officer to violate Inmates Fourteenth Amendment right to due process under civil right act by permitting the correctional office to order Inmates to dump their food tray and not providing the required food nutrient design by the dietitians.

Excessive use of force, assault and battery, and verbal abuse violated Mr. Collins constitutionally protected rights in accordance with the Eighth Amendment of United States constitution, By physically Beaten Mr. Collins. The actions by the Correctional officers also violated the Fourteenth Amendment of United States constitution, Equal Protection right.

When the medical staff failed to provide adequate medical attention it also violated Mr. Collins Eighth Amendment of United State constitution excessive cruel unusual punishment.

\* THE  
\* STATE OF  
\* DELAWARE  
ARGUMENT \*

Delaware, Department of Correction, Commissioner, Stanley Taylor and Sussex Correctional Institution, Warden, Rick Kearney failure to control correctional officer with their knowledge of the correctional officers repetitive use of excessive force constitute a de facto policy Papow v Margate 476 F. Supp 1237

Delaware Department of Corrections has a history for using excessive force violating the eighth and fourteenth Amendment of United States Constitution Davidson v Dixon 386 F. Supp 482

All prisoner is entitle to be in an environment that's free from cruel and unusual punishment under the eighth and Fourteenth Amendment

Nussle vs Porter 122 S.Ct 983

This case should be ruled more by the merits than technicalities. The Department of Correction control all Paper work. Commissioner, Stanley Taylor went under a major review for the neglect of Department of Correct medical Staff.

In that same error Mr. Collins was denied medical treatment also denied right to x-ray in his personal medical file. Dole v Arco Chemical Co. 921 F.2d 484

The Correctional officers was maliciously and sadistically when they hand cuff, sprayed

## ARGUMENT CONT.

two cans of pepper spray in Mr. Collins face. Then continue to beat Mr. Collins Hudson 112 S.Ct 995 When a prisoner is under control where the (correctional) officers can't be harmed. Then continue to physically hurt Mr. Collins that act violate Prisoner Fourteenth Amendment right to due process under civil right act Davidson v Dixon 386 F. Supp. 482.

Although it may appear that some Correctional officer didn't physically beat Mr. Collins personally they to share equal amount of responsibility Because of their knowledge of event that took place Even the medical staff that refuse Mr. Collins Proper treatment is equally responsible for Mr. Collins pain and suffering. Bracey v Grenoble 494 F.2d 566, Byrd v Brishke 466 F.2d 6, Landman v Royster 354 F. Supp 1302, Wright v McMann 460 F.2d 126

State prisoners are entitle to recover for physical abuse of his body under civil right act Curtis v Everett 489 F.2d 516 In this kind of premeditate malicious assault punitive damages are appropriate Collins v Brown 268 F. Supp 198

Lampert v Reynolds Metal Co. 372 F.2d 245 Correctional officer are not eligible for sovereign immunity when they act unconstitutionally Monroe v Pope 81 S.Ct 473

\*DISTRICT COURT\*

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CONCLUSION

MOREOVER THE PLAINTIFF  
BELIEVES THAT SUFFICIENT  
EVIDENCE EXISTS FOR THIS FAVORABLE  
Court to grant Reliefs he REQUESTED.

RESPECTFULLY  
Curtis Collins

DELAWARE CORRECTIONAL CENTER

#1181 # PADDICK RD SMYRNA DELAWARE  
19977

CERTIFICATE OF SERVICE

CURTIS M. COLLINS

hereby certify that

ON 11-30-06 I caused a true and correct copy of the  
BRIEF ATTACHED was handed to a DEP. CORR. OFFICER TO PLACE  
IN A DCC, U.S. MAILIN SYSTEM TO FORWARD TO:

CLERK

PETER M. DALLOO

UNITED STATES DISTRICT COURT  
OF DEL, Lock box 1844  
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19801-3570 #

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RESPECTFULLY SUBMITTED

CURTIS M. COLLINS  
DEP. CORR. CENTER  
1181 PADDOCK RD  
Smyrna DE

JUL "Dinner" "Cover"

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PLAINTIFF WITNESSES

Bobby PRICE m/s b KITCHEN WORKER

WILLIAM DEVONSHIRE s/b # 193813

John PALMER s/b # 194390

CORRONS ALSO HAVE PLENTY MORE WITNESSES

THAT WERE "PRESENT ON 8-6-05 M/S B CHOW HALL

# EXHIBITS

JMC/Curtiss m. Conkens  
SBI# 31412 & UNIT C U-3721  
DELAWARE CORRECTIONAL CENTER  
1181 PADDOCK ROAD  
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Legal

CLERK

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